

AMENDED IN SENATE JULY 16, 2015

AMENDED IN SENATE JULY 7, 2015

AMENDED IN ASSEMBLY MAY 6, 2015

AMENDED IN ASSEMBLY APRIL 22, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 564**

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**Introduced by Assembly Member Eggman**

February 24, 2015

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An act to amend Section 4677, to amend, repeal, and add Section 4784 of, and to repeal Section 4782 of, the Welfare and Institutions Code, relating to developmental services, and making an appropriation therefor.

### LEGISLATIVE COUNSEL'S DIGEST

AB 564, as amended, Eggman. Regional centers: parental fees.

Under existing law, the Lanterman Developmental Disabilities Services Act, the State Department of Developmental Services is required to contract with regional centers to provide services and supports to individuals with developmental disabilities and their families. Existing law requires the Director of Developmental Services to establish, annually review, and adjust as needed, a schedule of parental fees to be paid by parents of children under 18 years of age who are receiving 24-hour out-of-home care services through a regional center or who are residents of a state hospital or on leave from the state hospital.

Existing law provides that all parental fees collected by or for regional centers are remitted to the State Treasury to be deposited in the Program Development Fund, a continuously appropriated fund.

This bill would, effective July 1, 2016, revise and recast those provisions by, among other things, calculating monthly parental fees based on a percentage of the parents' annual income and authorizing a credit of the equivalent of one day of the monthly parental fee for each day a child spends 6 or more consecutive hours in a 24-hour period on a home visit. The bill would prohibit a monthly parental fee from exceeding the maximum monthly cost of caring for a child or the cost of services provided, whichever is less. The bill would require, for parents of children placed in 24-hour out-of-home care prior to July 1, 2016, the monthly parental fee to be recalculated at the time of the parents' annual fee ~~recalculation~~ *recalculation, or within 30 days of a parental request for review by the department*. The bill would make other related and conforming changes. To the extent monthly parental fees are increased by these provisions, this bill would make an appropriation.

Vote: majority. Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 4677 of the Welfare and Institutions Code  
2     is amended to read:  
3     4677. (a) (1) All parental fees collected by or for regional  
4     centers shall be remitted to the State Treasury to be deposited in  
5     the Developmental Disabilities Program Development Fund, which  
6     is hereby created in the State Treasury and hereinafter called the  
7     Program Development Fund. The purpose of the Program  
8     Development Fund shall be to provide resources needed to initiate  
9     new programs, and to expand or convert existing programs. Within  
10    the context of, and consistent with, approved priorities for program  
11    development in the state plan, program development funds shall  
12    promote integrated residential, work, instructional, social, civic,  
13    volunteer, and recreational services and supports that increase  
14    opportunities for self-determination and maximum independence  
15    of persons with developmental disabilities. Notwithstanding any  
16    other law or regulation, commencing July 1, 2009, parental fees

1 remitted to the State Treasury shall be deposited in accordance  
2 with Section 4784.

3 (2) In no event shall an allocation from the Program  
4 Development Fund be granted for more than 24 months.

5 (b) (1) The State Council on Developmental Disabilities shall,  
6 at least once every five years, request from all regional centers  
7 information on the types and amounts of services and supports  
8 needed, but currently unavailable.

9 (2) The state council shall work collaboratively with the  
10 department and the Association of Regional Center Agencies to  
11 develop standardized forms and protocols that shall be used by all  
12 regional centers and the state council in collecting and reporting  
13 this information. In addition to identifying services and supports  
14 that are needed, but currently unavailable, the forms and protocols  
15 shall also solicit input and suggestions on alternative and innovative  
16 service delivery models that would address consumer needs.

17 (3) In addition to the information provided pursuant to paragraph  
18 (2), the state council may utilize information from other sources,  
19 including, but not limited to, public hearings, quality assurance  
20 assessments conducted pursuant to Section 4571, regional center  
21 reports on alternative service delivery submitted to the department  
22 pursuant to Section 4669.2, and the annual report on self-directed  
23 services produced pursuant to Section 4685.7.

24 (4) The department shall provide additional information, as  
25 requested by the state council.

26 (5) Based on the information provided by the regional centers  
27 and other agencies, the state council shall develop an assessment  
28 of the need for new, expanded, or converted community services  
29 and support, and make that assessment available to the public. The  
30 assessment shall include a discussion of the type and amount of  
31 services and supports necessary but currently unavailable including  
32 the impact on consumers with common characteristics, including,  
33 but not limited to, disability, specified geographic regions, age,  
34 and ethnicity, face distinct challenges. The assessment shall  
35 highlight alternative and innovative service delivery models  
36 identified through their assessment process.

37 (6) This needs assessment shall be conducted at least once every  
38 five years and updated annually. The assessment shall be included  
39 in the state plan and shall be provided to the department and to the  
40 appropriate committees of the Legislature. The assessment and

1 annual updates shall be made available to the public. The State  
2 Council on Developmental Disabilities, in consultation with the  
3 department, shall make a recommendation to the Department of  
4 Finance as to the level of funding for program development to be  
5 included in the Governor's Budget, based upon this needs  
6 assessment.

7 (c) In addition to parental fees and General Fund appropriations,  
8 the Program Development Fund may be augmented by federal  
9 funds available to the state for program development purposes,  
10 when these funds are allotted to the Program Development Fund  
11 in the state plan. The Program Development Fund is,  
12 notwithstanding Section 13340 of the Government Code, hereby  
13 continuously appropriated to the department, and subject to any  
14 allocations that may be made in the annual Budget Act. In no event  
15 shall any of these funds revert to the General Fund.

16 (d) The department may allocate funds from the Program  
17 Development Fund for any legal purpose, provided that requests  
18 for proposals and allocations are approved by the state council in  
19 consultation with the department, and are consistent with the  
20 priorities for program development in the state plan. Allocations  
21 from the Program Development Fund shall take into consideration  
22 the following factors:

23 (1) The future fiscal impact of the allocations on other state  
24 supported services and supports for persons with developmental  
25 disabilities.

26 (2) (A) The information on priority services and supports  
27 needed, but currently unavailable, submitted by the regional  
28 centers.

29 (B) Consistent with the level of need as determined in the state  
30 plan, excess parental fees may be used for purposes other than  
31 programs specified in subdivision (a) only when specifically  
32 appropriated to the State Department of Developmental Services  
33 for those purposes.

34 (e) Under no circumstances shall the deposit of federal moneys  
35 into the Program Development Fund be construed as requiring the  
36 State Department of Developmental Services to comply with a  
37 definition of "developmental disabilities" and "services for persons  
38 with developmental disabilities" other than as specified in  
39 subdivisions (a) and (b) of Section 4512 for the purposes of  
40 determining eligibility for developmental services or for allocating

1 parental fees and state general funds deposited in the Program  
2 Development Fund.

3 SEC. 2. Section 4782 of the Welfare and Institutions Code is  
4 repealed.

5 SEC. 3. Section 4784 of the Welfare and Institutions Code is  
6 amended to read:

7 4784. (a) The Director of Developmental Services shall  
8 establish, annually review, and adjust as needed, a schedule of  
9 parental fees for services received through the regional centers.  
10 Effective July 1, 2009, this schedule shall be revised to reflect  
11 changes in economic conditions that affect parents' ability to pay  
12 the fee, but not to exceed an inflationary factor as determined by  
13 the department.

14 (b) The parental fee schedule established pursuant to this section  
15 shall be exempt from Chapter 3.5 (commencing with Section  
16 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

17 (c) In establishing the amount parents shall pay, the director  
18 shall take into account all of the following factors:

19 (1) The current cost of caring for a child at home, as determined  
20 by the most recent data available from the United States  
21 Department of Agriculture's survey on the cost of raising a child  
22 in California, adjusted for the Consumer Price Index (CPI) from  
23 the survey date to the date of payment adjustment.

24 (2) Medical expenses incurred prior to regional center care.

25 (3) Whether the child is living at home.

26 (4) Parental payments for medical expenses, clothing,  
27 incidentals, and other items considered necessary for the normal  
28 rearing of a child.

29 (5) Transportation expenses incurred in visiting a child.

30 (d) The parental fee schedule shall exempt families with an  
31 income below the federal poverty level from assessment and  
32 payment of the parental fee.

33 (e) (1) The adjusted fee shall be assessed in full for children  
34 when the out-of-home placement commences on or after July 1,  
35 2009.

36 (2) For children placed out-of-home prior to July 1, 2009, the  
37 department shall determine the increase in the parental fee above  
38 the amount assessed using the fee schedule in effect on June 30,  
39 2009. This fee increase shall be implemented over three years,  
40 with one-third of the increase added to the fee on July 1, 2009,

1 one-third of the increase added to the fee on July 1, 2010, and the  
2 final third added to the fee on July 1, 2011.

3 (f) Notwithstanding any other law, commencing July 1, 2009,  
4 all fees collected shall be remitted to the State Treasury to be  
5 deposited as follows:

6 (1) Fees collected up to the amount that would be assessed using  
7 the fee schedule in effect on June 30, 2009, shall be deposited into  
8 the Program Development Fund established in Chapter 6  
9 (commencing with Section 4670) to provide resources needed to  
10 initiate new programs, consistent with approved priorities for  
11 program development in the state plan.

12 (2) Fees collected using the July 1, 2009, schedule that are  
13 greater than the amount that would have been assessed using the  
14 fee schedule in effect on June 30, 2009, shall be deposited into the  
15 Program Development Fund and shall be available for expenditure  
16 by the department to offset General Fund costs.

17 (g) This section shall become inoperative on July 1, 2016, and,  
18 as of January 1, 2017, is repealed, unless a later enacted statute,  
19 that becomes operative on or before January 1, 2017, deletes or  
20 extends the dates on which it becomes inoperative and is repealed.

21 SEC. 4. Section 4784 is added to the Welfare and Institutions  
22 Code, to read:

23 4784. (a) The department shall assess a monthly fee to parents  
24 of children under 18 years of age who are receiving 24-hour  
25 out-of-home care services through a regional center or as a resident  
26 of a state hospital when the family's gross income is above 200  
27 percent of the federal poverty level.

28 (b) The monthly parental fees and credits established pursuant  
29 to this section shall be exempt from Chapter 3.5 (commencing  
30 with Section 11340) of Part 1 of Division 3 of Title 2 of the  
31 Government Code.

32 (c) A monthly parental fee described in this section shall be  
33 assessed beginning 60 days from the date of the child's placement  
34 in 24-hour out-of-home care.

35 (d) For the purpose of assessing the fee, parents shall provide  
36 income documentation to the department within 30 days of the  
37 date the department requested the documentation. Income  
38 documentation shall include a copy of a parent's most recent  
39 federal tax return or a copy of each parent's most recent paystub  
40 or employer-provided earnings statement, issued within 60 days

1 of the date the department requested the documentation. A  
2 self-employed parent shall document his or her income by  
3 providing a copy of his or her most recent federal tax return. A  
4 parent without income documentation shall report and certify his  
5 or her income on a form provided by the department.

6 (e) (1) The monthly parental fee for parents who timely submit  
7 income documentation or from whom the department does not  
8 request income documentation shall be as follows:

9 (A) Parents who have a family income of 201 percent to 300  
10 percent, inclusive, of the current federal poverty level shall be  
11 assessed a monthly fee of 3 percent of their annual gross income,  
12 divided by 12.

13 (B) Parents who have a family income of 301 percent to 400  
14 percent, inclusive, of the current federal poverty level shall be  
15 assessed a monthly fee of 4 percent of their annual gross income,  
16 divided by 12.

17 (C) Parents who have a family income of 401 percent to 500  
18 percent, inclusive, of the current federal poverty level shall be  
19 assessed a monthly fee of 5 percent of their annual gross income,  
20 divided by 12.

21 (D) Parents who have a family income of 501 percent or more  
22 of the current federal poverty level shall be assessed a monthly  
23 fee of 6 percent of their annual gross income, divided by 12.

24 (2) The monthly parental fee for parents who fail to provide  
25 income documentation to the department within 30 days of the  
26 date the department requested the documentation shall be  
27 equivalent to the maximum monthly cost of caring for a child, as  
28 determined by the most recent data available from the United States  
29 Department of Agriculture's survey on the cost of raising a child  
30 in the west region. However, if parents whose monthly parental  
31 fee is calculated pursuant to this paragraph later provide the  
32 required income documentation, their monthly parental fee shall  
33 be recalculated pursuant to paragraph (1) and retroactively adjusted  
34 based on the income information provided.

35 (3) A monthly parental fee assessed pursuant to this section  
36 shall not exceed the maximum monthly cost of caring for a child,  
37 as determined by the most recent data available from the United  
38 States Department of Agriculture's survey on the cost of raising  
39 a child in the west region, or the cost of the services provided,  
40 whichever is less.

1 (4) A monthly parental fee assessed pursuant to this section  
2 shall be recalculated every 12 months, on the date of the original  
3 fee assessment, and within 60 days of the date a parent notifies  
4 the department of a change in family income or family size and  
5 provides updated income documentation, as described in  
6 subdivision (d).

7 (5) Parents of children placed in 24-hour out-of-home care prior  
8 to July 1, 2016, shall have their monthly parental fee recalculated  
9 pursuant to the provisions of this section at the time of their annual  
10 ~~fee recalculation~~ *recalculation, or within 30 days of a parental*  
11 *request for review by the department.*

12 (6) The department may grant a temporary waiver from paying  
13 the monthly parental fee for parents who substantiate, with receipts,  
14 an unavoidable and uninsured catastrophic loss with direct  
15 economic impact on the family or significant unreimbursed medical  
16 costs associated with care for a child who is a regional center  
17 consumer.

18 (f) Parents who remove their child from 24-hour out-of-home  
19 care for a home visit for six or more consecutive hours during a  
20 24-hour period shall be entitled to a credit equal to one day of the  
21 monthly parental fee. A credit shall be calculated by multiplying  
22 the parents' monthly parental fee by 12 and dividing that number  
23 by the number of days in the year. In order to receive a credit  
24 pursuant to this subdivision, parents shall submit a request to the  
25 department that is postmarked no later than 60 days after the day  
26 for which the credit was earned. Failure to comply with this  
27 requirement will result in a denial of the credit by the department.

28 (g) All fees collected shall be remitted to the State Treasury to  
29 be deposited into the Program Development Fund established in  
30 Chapter 6 (commencing with Section 4670) to provide resources  
31 needed to initiate new programs, consistent with approved priorities  
32 for the program development in the state plan, or to be used by the  
33 department to offset General Fund costs.

34 (h) Parents may appeal a determination of the amount of a  
35 monthly parental fee or the denial or amount of a credit requested  
36 pursuant to subdivision (f) by submitting a written appeal request  
37 to the director within 30 days of the date of the monthly parental  
38 fee confirmation letter or credit confirmation or denial letter. An  
39 appeal pursuant to this subdivision may consider only disputes  
40 concerning the family income used to set the monthly parental fee



1 and the denial or amount of credit. The director, or his or her  
2 designee shall, within 30 days after receipt of the appeal, review  
3 the assessed monthly parental fee or credit denial or amount for  
4 accuracy and provide written notice of the decision to the appellant.  
5 The director or his or her designee shall, when deciding an appeal  
6 of a monthly parental fee, consider the income documentation and  
7 the calculation of the monthly parental fee described in subdivision  
8 (e). All decisions regarding monthly parental fee appeals shall be  
9 retroactive to the date the appealed monthly parental fee was  
10 assessed.  
11 (i) This section shall become operative on July 1, 2016.

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